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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,381	01/30/2002	Jutta Habermann	218816US6	5863

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ALEXANDRIA, VA 22314

EXAMINER

BROWN, PETER R

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,381

Applicant(s)

HABERMANN ET AL.

Examiner

Peter R. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2 and 3, there is no definite antecedent basis for "the seat cushion".

The recitation of the guide ribs "incorporated" in the plate, is confusing and unclear, as it is not evident how the ribs and the rails interact to provide the sliding function. Note that in line 6, "the plate" should specify to which plate is referred.

In line 8, the term "is arranged" is vague and indefinite, and a positive location and interconnected should be given to the "device", relative to the other elements.

In claim 2, the "foil" has not been sufficiently defined, and the term "rivet" or "fastening device" would be more appropriate than "clamp".

In claim 3, the term "Teflon" is a registered trademark and inappropriate for claim language.

In claim 4, the phrase "which is applied separately", is vague, and more structural definition and interconnection should be set forth, for clarity.

In claim 6, the phrase "special interrupted outline" is confusing and unclear, and the structure thereof should be more clearly set forth.

In claim 7, it is not clear how the seat plate "can be fastened", moreover, the "fastening domes" have not been sufficiently defined, nor has the "graduated arresting", in claim 8.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4 and 8, so far as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Ambasz ('785).

Figures 3 and 4 show structure as claimed, including a flexible seat plate 28 that is slidably supported by support plate 22. Note that in figure 3 a seat trough is shown. The support plate forms guide rails which are slidably engaged by guide "ribs" on the seat plate. A device in the form of a sliding layer 56 is applied to the seat plate to enhance sliding movement. Downward protrusion 74 may be considered an arresting button which, with the spring 64, provided a graduated arresting of the seat plate.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,5,6 and 9, so far as definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ambasz ('785).

The layer 56 is in the form of a foil, formed of a material with a low coefficient of friction to enhance sliding (col. 5, lines 20-22). Whether the layer is applied by adhesive or another fastening device is considered a matter of design choice, as is the type of material utilized for both the foil and the seat plate (claim 6).

While Ambasz shows a continuous "rib", to have formed instead a plurality of spaced "ribs", would have been well within the level of skill in the art.

In regards to claim 9, the extent of the sliding movement of the seat is considered a matter of design choice.

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ambasz ('850) and Crossman et al show various features of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter R. Brown whose telephone number is 703-308-2103.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'P. R. Brown', with a long horizontal flourish extending to the right.

Peter R. Brown
Primary Examiner
Art Unit 3636

prb
May 30, 2003